

Discretionary Housing Payment Policy

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Introduction

Discretionary Housing Payments may be awarded when the Council considers that a customer requires further financial assistance towards housing costs and they are in receipt of either Housing Benefit or the housing cost element of Universal Credit.

Discretionary Housing Payments can play an important role in sustaining tenancies, preventing homelessness and, where needed, enabling tenants to move to more affordable accommodation.

In addition to regular rent payments, housing costs can include rent in advance, rent deposits and other lump sum costs such as removal expenses.

Since its inception, the Council has used Discretionary Housing Payment funding primarily to make short term awards to ease transitions and to give claimants time to seek longer term resolution of their difficulties.

Aims and objectives

The overall aim of this policy is to ensure that Discretionary Housing Payment funds are allocated and committed throughout the year to provide further financial assistance for customers in hardship situations where Housing Benefit or the housing costs element of Universal Credit does not cover all the rent. Funds will be allocated in line with legislative requirements and to support local anti-poverty and homeless prevention work.

The Discretionary Housing Payment Policy additionally has the following specific aims that support objectives in the Council's corporate plan:

- To alleviate hardship and safeguard security of tenure.
- To help people through family crises or difficult life events, for example domestic violence, bereavement, births, children at a critical stage of their education or training.
- To support young people in the transition to adult life in particular, care leavers.
- To help keep families together.
- To assist customers affected by the changes to Local Housing Allowance Reforms.
- To assist customers affected by the Benefit Cap.
- To assist customers affected by the removal of the spare room subsidy in the Social Rented Sector.
- To assist people in obtaining or sustaining employment.
- To help people to secure and move to alternative accommodation (e.g. rent deposit, rent in advance and removal costs).
- To help with short-term eligible rental costs until the customer can secure and move to alternative accommodation.
- To help with short-term eligible rental costs while the customer seeks employment.
- To help with on-going eligible rental costs for a disabled person in adapted accommodation.
- To help with eligible rental costs for approved or prospective foster carers and adoptive parents.

Legislative Framework

The regulations covering Discretionary Housing Payments are the Discretionary Financial Assistance Regulations 2001 and amendments to the regulations are covered by the Council Tax Benefit Abolition (Consequential Amendments) Regulations 2013, which came into force on 1 April 2013; and The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (SI 2013/630), which came into force on 29 April 2013

The total value of Discretionary Housing Payments awarded in any financial year must not exceed the statutory cash limit set by Government. The cash limit is two and a half times the government contribution, which is set each year.

Awards

Discretionary Housing Payments are discretionary; however, the Council has a duty to act fairly, reasonably and consistently. Each case is to be decided on its own merits, and decision making should be consistent throughout the year

The various scenarios where a Discretionary Housing Payment may be used to assist include (but are not limited to):

- reductions in Housing Benefit or Universal Credit where the benefit cap has been applied;
- reductions in Housing Benefit or Universal Credit due to the maximum rent (social sector) size criteria;
- reductions in Housing Benefit or Universal Credit because of local housing allowance restrictions;
- rent officer restrictions such as local reference rent or shared accommodation rate;
- non-dependant deductions in Housing Benefit, or housing cost contributions in Universal Credit;
- rent shortfalls to prevent a household becoming homeless whilst the housing authority explores alternative options;
- excess income taper reduction
- reductions due to any further welfare reforms
- exceptional hardship

If the purpose of the Discretionary Housing Payment is to meet an on-going rental liability, it is up to the Council how much Discretionary Housing Payment is paid. However, in the case of a Housing Benefit claimant, Discretionary Housing Payment calculated on a weekly basis cannot exceed the eligible rent. For a Universal Credit claimant, Discretionary Housing Payment calculated on a monthly basis cannot exceed the amount calculated in accordance with Schedule 4 to 11 the Universal Credit Regulations i.e. the Universal Credit housing costs component of the Universal Credit award notice.

Rent deposits and rent in advance

A Discretionary Housing Payment may be awarded to assist with a rent deposit or rent in advance for a property that the customer is yet to move into if they are already entitled to Housing Benefit or Housing Costs Element of Universal Credit at their present home. When awarding Discretionary Housing Payments for a rent deposit or rent in advance, the Council may consider that:

- the property is affordable for the tenant; and
- the tenant has a valid reason to move; and
- the deposit or rent in advance is reasonable

Discretionary Housing Payments and two homes

In some circumstances a Discretionary Housing Payment can be awarded on two homes when someone is treated as temporarily absent from their main home, for example because of domestic violence. In this case, if the customer is treated as liable for rent on both properties, and in both cases there is a shortfall, they could have Discretionary Housing Payments in respect of both properties subject to the weekly limit on each property.

Exclusions

Certain elements of a customer's rent cannot be included in housing costs for the purposes of a Discretionary Housing Payment because the regulations exclude them.

Excluded elements are:

- Ineligible service charges
- Increases in rent due to outstanding rent arrears
- Sanctions and reductions in benefit, Discretionary Housing Payments cannot meet these because to do so would undermine the effectiveness of the sanctions or reduction in benefit
- Overpayments of Housing Benefit
- Council Tax

Applying for a Discretionary Housing Payment

The Council will accept applications in writing or verbally; we will support sick and disabled people to make an application that is accessible to them and sufficiently formal for our needs.

The customer or their partner must make the request however requests will also be accepted from someone acting in behalf of the customer where this is reasonable. Applications will be accepted from Wolverhampton Housing Options and Housing Outreach Team and City of Wolverhampton Welfare Rights Service.

The customer will usually be expected to complete a Discretionary Housing Payment application form and where a more detailed assessment is required may be asked to provide information in support of their application including information about their household, eligible rent, income and expenditure, and any other relevant information regarding their circumstances.

Examples of personal finances could include:

Food, gas, electricity, telephone, childcare, debt repayments, health expenses, essential travelling, disability related expenses

Examples of personal circumstances could include:

Adaptations to the property, age and health of the customer and household members, any recent bereavement in the family, proximity to friends and relatives who provide support, information from Doctor, Social Worker, health visitor

Examples of rent could include:

Tenancy agreement, rent book, proof of Housing Costs Element of Universal Credit
The customer will be asked how much additional financial assistance is required and for how long.

Making a decision

Each case will be considered uniquely; on its own merits and in accordance with guidance contained in the Department for Work and Pensions Discretionary Hardship Guidance Manual.

All Discretionary Housing Payment decisions will be recorded. The reason for the award will be recorded for monitoring purposes and as required by the Department for Work and Pensions. Monitoring of decisions will also help ensure equality in managing the fund and to promoting equal access to the fund.

There may be instances where the Council will use its own data to carry out one off campaigns to target resources to provide transitional protection to those customers affected by reductions in housing costs as a direct result of Welfare Reform and/or to protect vulnerable customers who are showing a shortfall in their rent.

This could include customers who are affected by the Benefit Cap, removal of the spare room subsidy or customers receiving Disability Living Allowance, Personal Independence Payment or Attendance Allowance

The Council has developed a tool to assist decision makers. This tool has been developed to ensure that Discretionary Housing Payments meet the aims and target priorities of the Discretionary Housing Payment policy.

The decision maker will consider whether the customer requires further financial assistance and will use the Discretionary Housing Payment decision making tool which assesses the customer's level of need considering the following factors:

- A customer or household member with a disability
- A customer or household member who is vulnerable
- Frail or elderly and unable to move home
- Families with children
- Families subject to Social Services intervention
- A disabled customer or household member living in a significantly adapted property
- Disability Living Allowance or Personal Independence Payment

- Attendance Allowance or Constant Attendance Allowance
- Fleeing Domestic Violence
- Relocating due to racial harassment
- Prevention of homelessness
- Providing care
- High levels of priority debt
- Close to support network, services or work
- Residing in Supported or Exempt Accommodation
- Under occupying their home
- Local Housing Allowance applied
- Benefit Cap
- Income Taper
- Non-Dependent Deduction

This list is not exhaustive

The decision-making tool will assist the decision maker in establishing the amount and duration of the Discretionary Housing Payment award and will assist the decision maker to identify those customers who require a further detailed assessment.

Further consideration should include but is not limited to:

- Is there a genuine risk of eviction if help with housing costs is not provided?
- What other outgoings does the customer have which make it harder for them to meet their housing costs?
- What capital assets does the customer have which might be used to help with their housing costs?
- Does the customer have access to other funds, including state benefits, as yet unclaimed?
- Does the customer pay for care costs that exceed the amount of their disability benefits?
- Does the customer have income disregarded for Benefit purposes that might be used?
- Is it possible for the customer to negotiate a rent reduction with the landlord?
- Is it reasonable for the customer to relocate to alternative accommodation that would incur lower housing costs?
- Does the customer or a family member suffer from health problems that make it important for them to remain in their current accommodation, and would it be adversely affect their condition if they were to move to other accommodation?
- Are there additional costs associated with any illness or disability?
- Is the hardship having effect on individuals within the family, for instance young children?
- Are non-dependants living in the household contributing financially?
- Has the customer or partner had a recent change in circumstances that means that their income has reduced significantly?
- Is there a risk of the customer being declared statutorily homeless if a payment is not made?
- The Council reserves the right, when awarding a Discretionary Housing Payment, to advise customers to seek alternative accommodation if it feels that the current

accommodation is inappropriate for their needs or to reduce unnecessary expenditure for non-essential items.

- The Council can identify areas where additional or support can be offered to assist the customer further by referring to other bodies such as the Wolverhampton Homes Money Smart Team; Citizens Advice, Wolverhampton Housing Outreach Team, Wolverhampton Housing Options, Age UK, Welfare Rights or any other relevant organisations.
- Consideration will be given to contacting third persons who the customer gives us permission to contact for information to support their request.

Where the customer is identified as having unusual or exceptional expenditure the customer may be asked to provide further evidence. The customer will be asked to provide original documents to support their outgoings.

When examining the shortfall in rent levels set by the Rent Service the decision maker will consider:

- Requesting a re-determination from the Rent Service
- Whether the Rent Service has determined the rent as 'Significantly High'
- Whether the customer has or may be able to negotiate with the landlord

Treatment of income

All components of Disability Living Allowance, Personal Independence Payment and Constant Attendance Allowance and Attendance Allowance are ignored as income when deciding either using the decision-making tool or carrying out a financial assessment

Payment of Discretionary Housing Payment

Payments to meet a weekly or monthly rental liability may be made at the same frequency as the Housing Benefit or Universal Credit payment; however, the Council will decide the frequency of payments.

A Discretionary Housing Payment is will be paid from the Monday following receipt of the Application. However, requests for backdating an award will be considered in exceptional circumstances.

Payments of Discretionary Housing Payment can be made to the claimant, appointee or landlord. If the customer is a tenant of a social landlord the payments will generally be made directly to their rent account.

Full year awards and repeat awards should be considered carefully, however, these can be paid in exceptional circumstances

Payments for rent deposits, rent in advance or removal costs are paid as one-off payments

Notification of award

All decisions will be notified in writing or in a manner to suit the needs of the customer. The decision will include: -

- The period of payment and an explanation of reasons for the award and what action we would expect the customer to take, to improve their situation.
- The date of expiry of the award.
- If the award is conditional, the letter will contain an explanation as to what evidence the customer will need to provide to enable a reassessment of their situation, should they wish to reapply on expiry of their award.
- a paragraph explaining that the customer has an obligation to report any change of circumstances and list the type of change of circumstances they need to report.
- Details of their right to request a review of the Discretionary Housing Payment decision.
- Details of the financial assessment if appropriate
- If the Landlord or appointee is the payee, then they should be notified of the decision limited to the amount of the award and the duration.

Requests for review

The Council will review a Discretionary Housing Payment decision in the event of a dispute or where the claimant asks for a re-consideration.

Decisions on Discretionary Housing Payments do not carry a right of appeal to a Social Security Tribunal, instead a locally administered dispute process is operated. The route of judicial review is available, and the Local Government Ombudsman if there is an allegation of maladministration.

Reviews will be considered by an officer independent of the original decision maker. The review will look at a decision again in the light of representations made by the claimant. Cases will be considered fairly, reasonably and consistently. Each case is to be decided on its own merits, and decision making will be consistent throughout the year

The Council will notify the customer of a review outcome in writing with reasons as soon as is reasonably practical

Changes of circumstances

A customer has a duty to notify the Council of a change in their circumstances that could either affect the level of the Discretionary Housing Payment award and duration. The Discretionary Housing Payment award may be reduced or increased.

Awards can be ended if the customer no longer demonstrates the need for further financial assistance.

Overpayments

The Council will recover Discretionary Housing Payments if payment has been made because of misrepresentation or failure to disclose a material fact, either fraudulently or otherwise. The Council may also recover Discretionary Housing Payments if they decide the award has been paid because of an error made when the application was determined.

The Council may not recover Discretionary Housing Payments from on-going Housing Benefit or Universal Credit. This is unlike Housing Benefit overpayments where there is a regulatory provision to allow recovery from on-going Housing Benefit.

The Council will consider offsetting overpaid Discretionary Housing Payment against any future awards.

The Council will endeavour to recover all Discretionary Housing Payment overpayments to ensure that maximum funds are available to those considered to be in most need of further financial assistance

Further assistance

When making a decision, the Council will consider other any further assistance the customer may need and advise as follows:

- Encourage liaison with Citizen Advice with regards to consolidating debts and debt relief orders.
- Maximise the claimant's income by advising of other benefits they can claim including referring to Welfare Rights Service
- Consider referring vulnerable customers to Wolverhampton Housing Options Tenancy Sustainment Team for 'assisted' bidding in respect of Council Tenants or to enable re-banding.
- Consider customers who show severe financial hardship and have Council Tax Arrears under the provisions of the Council Tax Discretionary Relief Policy
- Help to negotiate a more affordable rent with their landlord.
- Identify vulnerable customers who show difficulty in accessing our service. We will work with partner organisations such as Welfare Rights, Citizens Advice and other appropriate organisations to make our service accessible to vulnerable customers
- If customer is in a council tenancy, consider referring to the Money Smart Team for Debt and Budgeting Advice when applicable.
- For those customers in receipt of Universal Credit, consider referring them for Personal Budgeting Support using the current referral process
- Consider referring customer to the "home swap and move" website to discuss the possibility of a mutual exchange.
- If Discretionary Housing Payment or Rent Deposit application is unsuccessful, then a referral can be made the Manager of Wolverhampton Housing Options who will consider if the customer can be assisted from the Homeless Prevention Fund.
- Consider referring the customer Public Health for assistance if customer requires help quitting smoking. Improve access to 'quit smoking' aids.

Reporting, monitoring and review

From April 2013, the Department for Work and Pensions has looked at how Discretionary Housing Payments are being used to support claimants affected by the welfare reforms.

In addition to the annual Discretionary Housing Payment claim form and separate from the accounting returns, the Council is asked to continue to provide supplementary data twice yearly, in October and in April. Following a successful application for Discretionary Housing Payments, the Council will record if the claimant has been affected by one of the following:

- benefit cap
- removal of spare room subsidy in social rented sector
- local housing allowance restrictions
- combination of reforms
- none of the above

The Council will report the amount paid out to a claimant. If it is a one-off payment, the Council will record the amount paid. Where there is a change of circumstances, and an award ceases we will record the amount of the award paid out to the claimant.

Additionally, the Council will record the intended outcome by value of payments made.

The outcomes are broadly grouped into the areas that cover the policy intention of Discretionary Housing Payments:

- To help secure and move to alternative accommodation (e.g. rent deposit)
- To help with short-term rental costs until the claimant can secure and move to alternative accommodation
- To help with short-term rental costs while the claimant seeks employment
- To help with on-going rental costs for a disabled person/s in adapted accommodation
- To help with on-going rental costs for a foster carer / adoptive parent
- To help with short-term rental costs for any other reason

The Discretionary Housing Payments (Grants) Order 2001 requires the Council to submit claim forms providing details of Discretionary Housing Payment expenditure.

The claim form must be signed by the Responsible Finance Officer within the LA (pursuant to S.151 of the Local Government Act 1972)

Due to the increase in Discretionary Housing Payment funding and following discussions with the National Audit Office, the Department for Work and Pensions has strengthened its assurance arrangements by including additional requirements in the LA certificate.

In addition to providing details of Discretionary Housing Payment expenditure, the Responsible Finance Officer must certify that all entries on the claim forms are accurate and expenditure has been incurred in accordance with this guidance and the regulations governing Discretionary Housing Payments.

The Council will monitor the actual and committed spend from Discretionary Housing Payment fund periodically throughout the year to ensure that the fund is managed effectively

In accordance with the Council's responsibilities under S149 of the Equality Act 2010 the Council will monitor the equality profile of those affected by the policy to ensure its compliance with the Act.

The Discretionary Housing Payment Policy will be reviewed in the event of a material change in legislation or the level of funding. Any recommendations for amendment will have due regard for any

- Changes in legislation
- Changes to Discretionary Housing Payment funding
- Alignment with Council strategies and priorities